

REMARKS

This Amendment is submitted simultaneously with filing of a request for continuing examination and in response to the Examiner's Office Action of August 7, 2003.

In the Office Action the Examiner indicated that claims 6, 13-16 and 19 were allowed, and at the same time the Examiner rejected claims 1, 7, 11-12 and 18 under 35 U.S.C. 102(e) over the patent to Tsujii.

With the present Amendment applicants have amended claims 1, 13 and 18 to more clearly define the present invention and to distinguish it from the prior art.

The amended independent claim specifically define that for each individual shaft of the planetary gear, namely, sun wheel shaft, planet wheel carrier shaft and ring gear shaft, there is a uniquely defined operative connection to either one of the entities, namely the engine, the at least one supplementary motor, and the auxiliary system.

This means that there is an exclusive relationship between each shaft and each entity. In other words, a certain entity is driven by exactly one, uniquely defined shaft, and any shaft drives exclusive or only exactly one, uniquely defined entity. For example, in a preferred embodiment, the sun wheel shaft is connected and drives only the supplementary motor, the planet wheel carrier shaft is connected to and drives only the engine, and the ring gear shaft is connected to and drives only the auxiliary system. This means, for example, that the ring gear shaft does not drive any other entity, but only the auxiliary system, and also that the auxiliary system is not driven by any other shaft, but only by the ring gear shaft.

The patent to Tsujii does not disclose a device with such a clearly defined relationship, and this new feature of the present invention can not be derived from the patent to Tsujii. Turning now to Figure 3 of the reference, it can be seen that there is an ambiguous relationship between the planet wheel carrier shaft and the ring gear shaft on the one hand, and the engine and the auxiliary system on the other hand. The planet wheel carrier shaft in this reference is operatively connected to the engine and to the auxiliary system. In other words, the auxiliary system is driven by the

planet wheel carrier shaft and the ring gear shaft. Also, the auxiliary system is driven by the planet wheel carrier shaft and the ring gear shaft.

It is therefore believed to be clear that this reference does not teach the new features of the present invention which are now defined in the amended independent claims.

The original claims were rejected over this reference under 35 U.S.C. 102(e) as being anticipated. It is respectfully submitted that the reference does not teach all features of the present invention as defined in the independent claims. In connection with this, it is believed to be advisable to cite the decision *Lindenman Maschinen Fabrik GmbH v. American Hoist & Diary Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claims".

Definitely, the reference does not contain each and every element of the claimed invention arranged as in the claims.

In the decision *Row v. Dror*, 42 USPQ 2d 155, 153 (Fed. Cir. 1997) it is stated:

"A prior art reference anticipates a claim only if the reference discloses, either expressed or inherently, every limitation of the

claim...absence from the reference of any claimed element negates anticipation".

Definitely, the reference does not contain all elements which are claimed now in the independent claims.

Also, it is respectfully submitted that the claimed invention can not be considered as obvious from the reference. In order to arrive at the applicant's invention from the teaching of the reference, it is necessary to significantly modify the construction disclosed in the reference. It is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

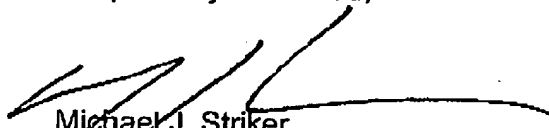
Definitely the reference does not contain any hint or suggestion for such modifications.

In view of the above presented remarks and amendments, it is believed that the amended independent claims currently on file should also be considered as patentably distinguishing over the art and should also be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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